

Rules of Trial Procedure

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Rule 3.1 Appearance

- (A) Initiating party. At the time an action is commenced, the attorney representing the party initiating the proceeding or the party, if pro se, shall file with the clerk of the court an appearance form setting forth the following information:
- (1) Name, address and telephone number of the initiating party or parties filing the appearance form;
 - (2) Name, address, attorney number, telephone number, FAX number, and e-mail address of any attorney representing the party, as applicable;
 - (3) The case type of the proceeding [Administrative Rule 8(B)(3)];
 - (4) A statement that the party will or will not accept service by FAX;
 - (5) In domestic relations, Uniform Reciprocal Enforcement of Support (URES), paternity, delinquency, Child in Need of Services (CHINS), guardianship, and any other proceedings in which support may be an issue, the Social Security Identification Number of all family members;
 - (6) The caption and case number of all related cases;
 - (7) Such additional matters specified by state or local rule required to maintain the information management system employed by the court;
 - (8) In a proceeding involving a protection from abuse order, a workplace violence restraining order, or a no-contact order, the initiating party shall

provide to the clerk a public mailing address for purposes of legal service.

The initiating party may use the Attorney General Address Confidentiality program established by statute; and

- (9) In a proceeding involving a mental health commitment, except 72 hour emergency detentions, the initiating party shall provide the full name of the person with respect to whom commitment is sought and the person's state of residence. In addition, the initiating party shall provide at least one of the following identifiers for the person:

- (a) Date of birth;
- (b) Social Security Number;
- (c) Driver's license number with state of issue and date of expiration;
- (d) Department of Correction number;
- (e) State ID number with state of issue and date of expiration; or
- (f) FBI number.

- (B) Responding parties. At the time the responding party or parties first appears in a case, the attorney representing such party or parties, or the party or parties, if pro se, shall file an appearance form setting forth the information set out in Section (A) above.

- (C) Intervening Parties. At the time the first matter is submitted to the court seeking to intervene in a proceeding, the attorney representing the intervening party or parties, or the intervening party or parties, if pro se, shall file an appearance form setting forth the information set out in Section (A) above.

- (D) Confidentiality of Information Excluded from Public Access. Any appearance form information or record defined as not accessible to the public pursuant to Administrative Rule 9(G)(1) shall be filed in a manner required by Trial Rule 5.
- (E) Completion and correction of information. In the event matters must be filed before the information required by this rule is available, the appearance form shall be submitted with available information and supplemented when the absent information is acquired. Parties shall promptly advise the clerk of the court of any change in the information previously supplied to the court.

~~In a motion for leave to withdraw appearance, an attorney shall certify the last known address and telephone number of the party, subject to the confidentiality provisions of Sections (A)(8) and (D) above, before the court may grant such a motion.~~

- (F) Forms. The Division of State Court Administration shall prepare and publish a standard format for compliance with the provisions of this rule.

- (G) Service. The Clerk of the Court shall use the information set forth in the appearance form for service by mail under Trial Rule 5(B)(2).

- (H) **Withdrawal of Representation.** An attorney representing a party may file a motion to withdraw representation of the party upon a showing that the attorney has sent written notice of intent to withdraw to the party at least 10 days before filing a motion to withdraw representation, and either:
- (1) the terms and conditions of the attorney's agreement with the party regarding the scope of the representation have been satisfied, or

(2) withdrawal is required by Professional Conduct Rule 1.16(a), or is otherwise permitted by Professional Conduct Rule 1.16(b).

An attorney filing a motion to withdraw from representation shall certify the last known address and telephone number of the party, subject to the confidentiality provisions of Sections (A)(8) and (D) above, and shall attach to the motion a copy of to notice of intent to withdraw that was sent to the party.

A motion for withdrawal of representation shall be granted by the court unless the court specifically finds that withdrawal is not reasonable or consistent with the efficient administration of justice.

- (I) **Temporary or Limited Representation.** ~~In the event If~~ an attorney seeks to represent a party in a proceeding before the court on a temporary basis or a basis that is limited in scope different from any specifically identified in a previously filed appearance, is temporarily representing a party in a proceeding before the court, through filing a pleading with the court or in any other capacity including discovery, the new attorney shall file the new attorney shall file a notice of temporary or limited representation an appearance form. ~~The appearance form shall contain the information set out in Section (A) (1) and (2) above, shall provide the name, attorney number and all contact information of the attorney who has filed the prior appearance in the case, the new attorney's temporary status, and the date the temporary appearance shall end.~~ The notice shall contain the information set out in Section (A) (1) and (2) above and a description of the temporary or limited status, including the date the temporary status ends or the scope of the limited representation. ~~The court shall not be required to act on the~~

temporary or limited representation appearance, unless the new temporary attorney has not appeared at the request of a party's previously identified counsel.
At the completion of the temporary or limited representation the attorney shall file a notice of completion of representation with the clerk of the court.

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Rule 53.1. Failure to rule on motionTime Limitation for Ruling

- (A) ~~Time limitation for ruling. In the event a court fails for thirty (30) days to set a motion for hearing or fails to rule on a motion within thirty (30) days after it was heard or thirty (30) days after it was filed, if no hearing is required, upon application by an interested party, the submission of the cause may be withdrawn from the trial judge and transferred to the Supreme Court for the appointment of a special judge.~~

The time limit for courts to rule on motions shall be as set forth below.

(1) Motions for Summary Judgment and to Dismiss. A court shall:

- (a) either schedule motions for summary judgment or to dismiss for hearing or rule upon such motions within forty-five (45) days of filing, or
(b) if a hearing is held, rule within forty-five (45) days after the hearing.

(2) Other Motions. A court shall:

- (a) either schedule all motions, other than motions for summary judgment and to dismiss, for hearing or rule upon such motions within thirty (30) days of filing,
or
(b) if a hearing is held, rule within forty-five (45) days after the hearing.

The submission of the cause may be withdrawn from the trial judge and transferred to the Supreme Court for appointment of a special judge upon a party submitting a confidential Notice of Delay to the Executive Director of the Division of State Court Administration (Executive Director).

(B) Exceptions. The time limitation for ruling on a motion established under Section (A) of this rule shall exclude any period after which the case is referred to alternative dispute resolution and until a report on the alternative dispute resolution is submitted to the court. The time limitation for ruling on a motion established under Section (A) of this rule shall not apply where:

- (1) The Court, within thirty (30) days after filing, orders that a motion be considered during the trial on the merits of the cause; or
- (2) The parties who have appeared or their counsel stipulate or agree on record that the time limitation for ruling on a motion shall not apply; or
- (3) The time limitation for ruling has been extended by the Supreme Court as provided by Section (D) of this rule; or
- (4) The ruling in question involves a repetitive motion, a motion to reconsider, a motion to correct error, a petition for post-conviction relief, or a ministerial post-judgment act.

(C) Time of ruling. For the purposes of ~~Trial Rules 53.1, 53.2 and 53.3~~, Section (a) of this rule, a court ~~is will be~~ deemed to have set a motion for hearing on the date the setting is noted in the Chronological Case Summary, and to have ruled on the date the ruling is noted in the Chronological Case Summary~~or decided at the time the ruling or decision~~

~~is entered into a public record of the court or at the time the ruling or decision is received in the office of the Clerk of the court for filing.~~

(D) Extension of time for ruling. A judge may apply to the Supreme Court of Indiana to extend the time limitation set forth under Trial Rule 53.1, 53.2, or 53.3. The application must be filed prior to a party submitting a confidential Notice of Delay to the Executive Director ~~the filing of a praecipe with the Clerk~~ under Trial Rules 53.1, 53.2, or 53.3, must be verified, must be served on the Clerk and all parties of record, and must set forth the following information:

- (1) The nature of the matter under submission;
- (2) The circumstances warranting the delay; and
- (3) The additional time requested.

The withdrawal of submission under Trial Rule 53.1 or 53.2 or denial of a motion to correct error under Trial Rule 53.3 may not take effect during the pendency of the application for an extension of time to rule. However, if the time limitation expires while the application is pending before the Supreme Court, the jurisdiction of the trial judge shall be suspended at that point pending the action of the Supreme Court.

(E) Procedure for withdrawing submission. Upon receipt of a confidential ~~the filing by an interested party of a praecipe~~ Notice of Delay specifically designating the motion or decision delayed, the Executive Director ~~Clerk of the court~~ shall record ~~enter~~ the date and time of the receipt of the filing ~~Notice in the Clerk's praecipe book, record the filing and notify the clerk of the trial court where the case is pending of the date of the receipt of the Notice. The clerk of the trial court shall record the date of receipt of the Notice in~~

the chronological case summary under the cause, ~~and determine whether or not a ruling has been delayed beyond the time limitation set forth under Trial Rule 53.1 or 53.2 and notify the judge and the parties of the Executive Director's receipt of the Notice. The clerk shall also prepare and serve a copy of the Chronological Case Summary on the Executive Director.~~

(1) If the Executive Director determines that the ruling or decision has not been delayed, the Executive Director shall provide notice of the determination in writing to the clerk of the court where the case is pending and the submission of the cause shall not be withdrawn from the judge pursuant to the Notice of Delay. The clerk shall record this determination in the Chronological Case Summary of the case and provide notice to the judge and all parties of record in the case.

(2) If the Executive Director determines that a ruling or decision has been delayed beyond the time limitations set forth in Trial Rule 53.1 or 53.2, the Executive Director shall give written notice to the judge, the clerk of the trial court and the Clerk of the Supreme Court of Indiana that the submission of the case has been withdrawn from the judge. The effective date of such withdrawal shall be the date of the receipt of the Notice of Delay by the Executive Director. The clerk of the trial court shall record this determination in the Chronological Case Summary of the case and provide notice to all parties in the case. The Executive Director shall submit the case to the Supreme Court of Indiana for appointment of a special judge or such other action deemed appropriate by the Supreme Court.

~~(1) If the Clerk determines that the ruling or decision has not been delayed, the Clerk shall notify in writing all parties of record in the proceeding and record this~~

~~determination in the chronological case summary under the cause. The Clerk's determination under this subparagraph shall not be filed with the Indiana Supreme Court.~~

~~(2) If the Clerk determines that a ruling or decision has been delayed beyond the time limitation set forth under Trial Rule 53.1 or 53.2, the Clerk shall give written notice to the judge of the cause and the Supreme Court of Indiana that submission of the cause has been withdrawn effective as of the time of the filing of the praecipe and record this determination in the chronological case summary under the cause. Accompanying the written notice to the Supreme Court of Indiana, the Clerk shall provide a copy of the praecipe filed and the chronological case summary for the case.~~

(F) Report to Supreme Court. When a special judge is appointed under Trial Rule 53.1 or 53.2, the judge from whom submission was withdrawn shall, within ten (10) days from receipt of the order appointing a special judge, file a written report in the Supreme Court under the cause appointing the special judge. This report shall fully state the nature of the matters held in excess of the time limitations. Additionally, the report may relate any other facts or circumstances which the judge deems pertinent.

(G) Permanent record. The Supreme Court shall maintain a permanent record of special judge appointments under Trial Rules 53.1 and 53.2.

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Trial Rule 59. Motion to Correct Error

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(G) Cross errors. If a motion to correct error is denied, the party who prevailed on that motion may, in the appellate brief and without having filed a statement in opposition to the motion to correct error in the trial court, defend against the motion to correct error on any ground and may first assert grounds for relief therein, including grounds falling within sections (A)(1) and (2) of this rule. In addition, if a notice of appeal rather than a motion to correct error is filed by a party ~~in the trial court~~, the opposing party may raise any grounds as cross-errors and also may raise any reasons to affirm the judgment directly in the appellate brief, including those grounds for which a motion to correct error is required when directly appealing a judgment under Sections (A)(1) and (2) of this rule.

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